



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Third day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)Nos.1840 and 1841 of 2021
in
Crl.R.C.(MD) No.165 of 2021

A.RAJKUMAR

... PETITIONER/ APPELLANT/
RESPONDENT
IN BOTH THE PETITIONS

Vs

V.S.KANNAN

... RESPONDENT/ RESPONDENT/
COMPLAINANT
IN BOTH THE PETITIONS

PRAYER IN Crl.M.P.(MD)No.1840 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence and grant Bail to the Revision Petitioner/Sole accused against the concurrent finding of the Judgment in Crl.A.No.6 of 2020 dated 26.11.2020 on the file of Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni against the judgment in S.T.C.No.47 of 2019 dated 26.11.2019 on the file of the Judicial Magistrate Fast Track Court, Theni pending disposal of the instant Criminal Revision Petition on such terms and conditions as may deemed fit and thus render justice.

Prayer in CRL MP(MD). 1841/ 2021 :

To Exemption from Surrender to the Revision Petitioner/Sole Accused against the concurrent finding on the Judgment in Crl.A.No.6 of 2020 dated 26.11.2020 on the file of Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni against the judgment in S.T.C.No.47 of 2019 dated 26.11.2019 on the file of the Judicial Magistrate Fast Track Court, Theni pending disposal of this Criminal Revision Petition.

PRAYER IN Crl.R.C.(MD) No.165 of 2021:

To call for the records pertaining to the concurrent finding of the judgment in Crl.A.No.06 of 2020 dated 26.11.2020 on the file of Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni against the judgment in S.T.C.No.47 of 2019 dated 26.11.2019 on the file of the Judicial Magistrate, Fast Track Court, Theni and set aside the same.



Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.I.PINAYGASH, Advocate for the petitioner in both the petitions, While admitting the Criminal Revision, the court made the following order:-

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It is seen that the petitioner was convicted by the learned Judicial Magistrate (Fast Track Court), Theni, in S.T.C.No.47 of 2019 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo four months simple imprisonment and to pay a compensation of Rs.2,00,000/- (Rupees Two Lakhs only), in default, to undergo a further period of two months simple imprisonment, by judgment, dated 26.11.2019.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.06 of 2020 before the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 26.11.2019. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.165 of 2021. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

3. The learned counsel for the petitioner fairly conceded that the petitioner is ready and willing to deposit 25% of the cheque amount to the credit of S.T.C.No.47 of 2019, before the learned Judicial Magistrate (Fast Track Court), Theni, without prejudice to his case.

4. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

5. Accordingly, Crl.M.P.(MD)No.1840 of 2021 is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) the petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the learned Judicial Magistrate (Fast Track Court), Theni, within a period of one month from the date of receipt of copy of this order;



(ii) the petitioner shall deposit 25% of the cheque amount, less the amount already deposited if any, to the credit of S.T.C.No.47 of 2019, before the learned Judicial Magistrate (Fast Track Court), Theni, within a period of one month from the date of receipt of copy of this order;

(iii) if the petitioner is not deposit the said amount within a stipulated period as mentioned above, the suspension of sentence granted in favour of the petitioner shall stand dismissed automatically;

(iv) On deposit of the aforesaid amount, the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate (Fast Track Court), Theni.

(v) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(vi) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision or until further orders.

(vii) on such deposit, the learned Judicial Magistrate (Fast Track Court), Theni, shall re-deposit the said amount in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl. R.C.(MD) No.165 of 2021.

6. Accordingly, Crl.M.P.(MD)No.1841 of 2021 is dismissed.

sd/-
03/03/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hservices.ecm.hq.mca.gov.in/hservices/>



TO

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM,
FAST TRACK MAHILA COURT,
THENI

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, THENI.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

ORDER IN

CrI.M.P.(MD) Nos.1840 and 1841 of 2021
in

CrI.R.C.(MD) No.165 of 2021

Date :03/03/2021

sj i

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